

CITY OF HUDSON

Transit Feasibility Plan Update - 2022





Prepared for:

CITY OF HUDSON
505 3RD STREET
HUDSON, WI 54016-1694
WWW.HUDSONWI.GOV



Prepared by:

WEST CENTRAL WISCONSIN
REGIONAL PLANNING COMMISSION
800 WISCONSIN STREET
MAIL BOX 9
EAU CLAIRE, WI 54703
PHONE: 715.836.2918
WWW.WCWRPC.ORG



August 2022

Table of Contents

Objectives	4
Service Assumptions	5
Demographics	6
Peer Communities' Services	12
Service Estimates for Hudson	14
Service Expenses	16
Revenue Sources: Fares, Grants and Local Match	18
Governance and Administration	22
Next Steps	24
Appendix A	26

Objectives and Assumptions



Plan Update Objectives

This plan is an update to the *2020 Hudson Elderly and Disabled Transit Feasibility Study*. This update considers an expanded focus which includes all riders.

OBJECTIVES

- » Estimate ridership for a shared ride taxi service open to the general public.
- » Update the estimated expenses and grant resources available to operate a shared ride taxi service. This is particularly important for two reasons: 1) the expanded population who will be eligible to use the service requires new ridership estimates, 2) recent high levels of economic inflation have significantly impacted anticipated operating and capital expenses.

Objectives and Assumptions

Assumptions

The City of Hudson has specified several assumptions about the proposed transit service within which this plan update has been developed. These assumptions were used as the model for estimating the amount of service required, but any transit service launched may vary from these parameters.

- » The service will be available to all public passengers, an expansion of service from the elderly- and disabled-only population considered in the original study.
- » The service will operate using a shared ride taxi program similar to those in River Falls and New Richmond.
- » Service will operate from 7 a.m. to 7 p.m. seven days per week.
- » Service will be on-demand up to the system capacity. On-demand means that a rider will be able to schedule a ride on the same day as long as there is still room in the operating schedule.
- » Service will be provided within the City limits and up to five miles from the City. One end of each trip must

be within the City.

- » Fares will be modeled using a base fare for travel between two points within the City. This fare will be discounted for elderly passengers, for K-12 students, and for those with disabilities.
- » For any travel outside the City limits, an additional per-mile surcharge will be added to the fare.

Shared Ride Taxi Systems

Shared ride taxi transit service uses accessible vehicles to provide curb-to-curb service. Passengers may share the vehicle with others and stops may be made during the trip to pick up or drop off other passengers.

- » The service will be operated by a contracted provider.
- » The service will have two or three vehicles available at launch.
- » The accessible vehicles will be owned by the city and leased to the contracted operator.

Demographics

Mapping the Groups Likely to Use Transit

The *2020 Elderly and Disabled Transit Feasibility Study* has a section on demographics based on the U.S. Census Bureau's estimates in the 2017 American Community Survey (ACS) data. This report updates that information to the 2019 ACS results and adds several data maps.

The population of Hudson is 13,791. An additional 16,560 live in Wisconsin within a 5-mile radius of the city (see the population map on page 7). The City has an area of 6.77 square miles.

Population groups with certain characteristics are more likely to use transit services. Visualizing where members of those groups are located can help examine where there might be more demand for transit service.

- » Elderly – One third of people aged 65 or over have limited their driving and one in five have given up driving altogether. This can lead to difficulties accessing medical services, retail and grocery shopping, and can lead to social isolation. All of these challenges lower a person's physical and emotional well-being and often lead to reduced medical outcomes.
- » Those with a disability – Many types of physical challenges can make operating a personal motor vehicle difficult or impossible.
- » Zero-vehicle - Households without a vehicle are more dependent on public transit.
- » Lower-income households – These households often lack the resources to own adequate personal transportation.

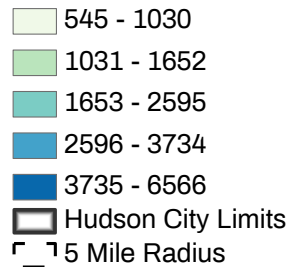
The maps on pages 7-11 show the overall population and the distribution of households with the above characteristics based on the 2019 U.S. Census Bureau's 2019 American Community Survey estimates.



Total Population

The map to the right shows the total population living in each block group in 2019. The population totals are estimates based off analysis completed on the 2019 American Community Survey (ACS) block level data. The total population within the 5-mile study area is approximately 30,351.

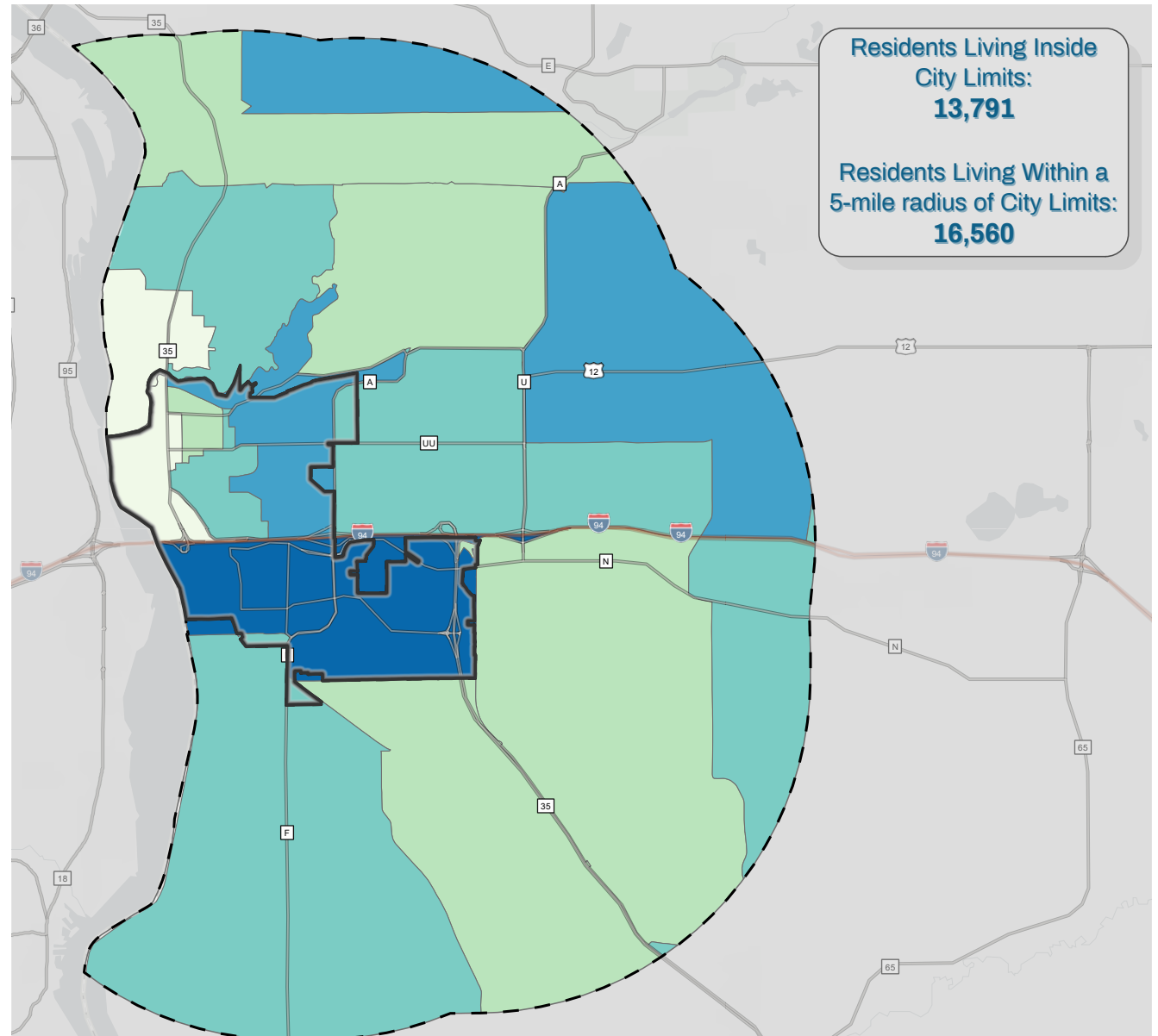
Number of People Per Block Group



Data Sources:
WisDOA, WCWRPC, American
Community Survey ESRI



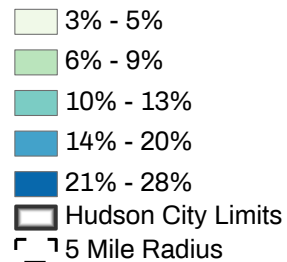
0 2.25 4.5 Miles



Elderly Population

The map to the right shows the total population above the age of 65 living in each block group in 2019. The population totals are estimates based off analysis completed on the 2019 American Community Survey (ACS) block level data. The total elderly population within the 5-mile study area is approximately 4,402.

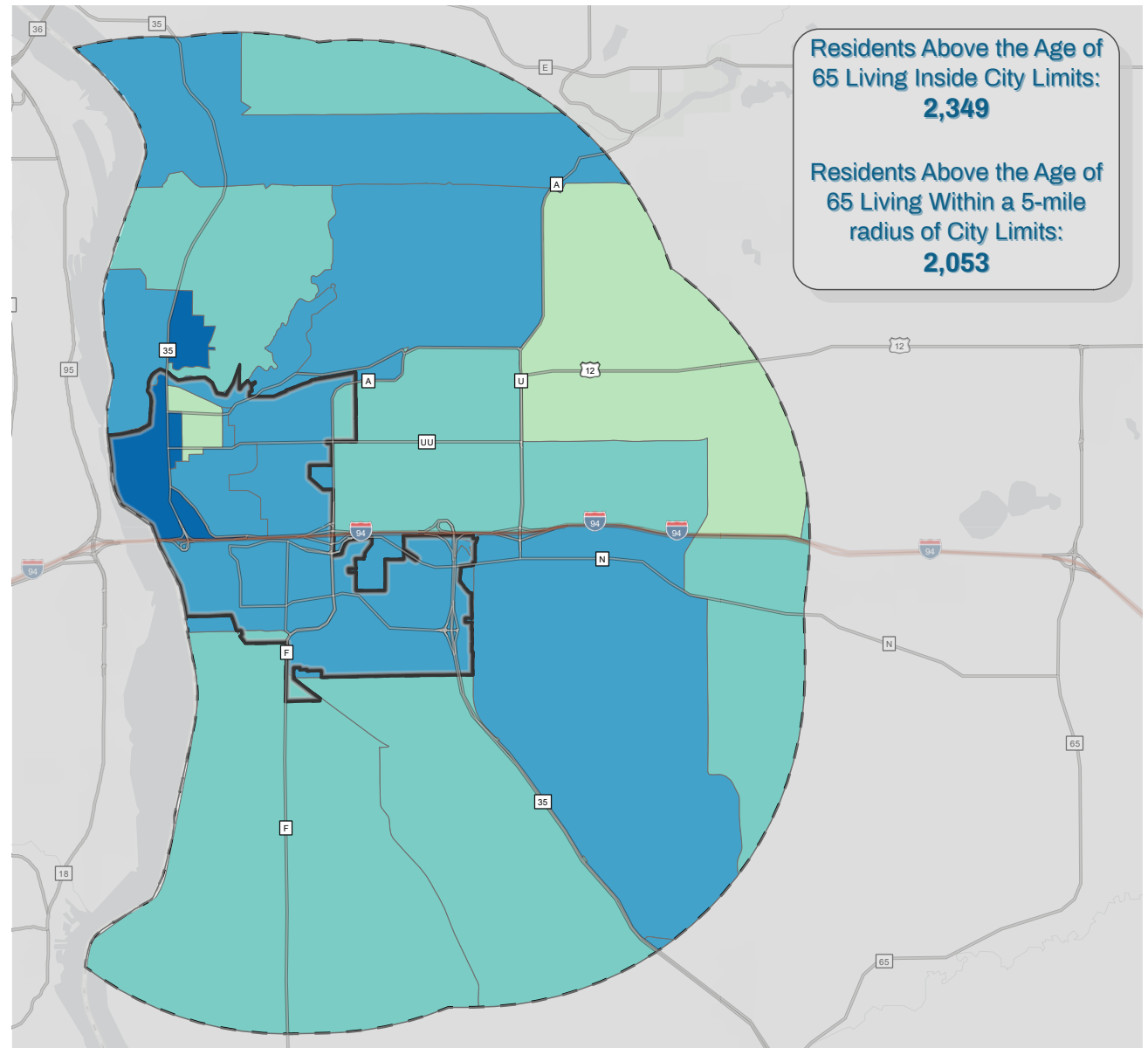
Percent of Population Above the Age of 65



Data Sources:
WisDOA, WCWRPC, American
Community Survey ESRI



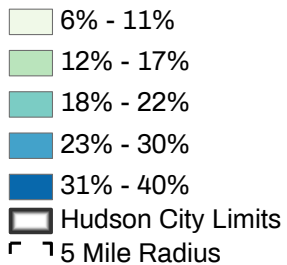
0 2.25 4.5 Miles



Population with a Disability

The map to the right shows the percent of households with 1+ persons with a Disability for each block group in 2019. The household totals are estimates based off analysis completed on the 2019 American Community Survey (ACS) block level data. The total number of households with someone with a disability is 2,158.

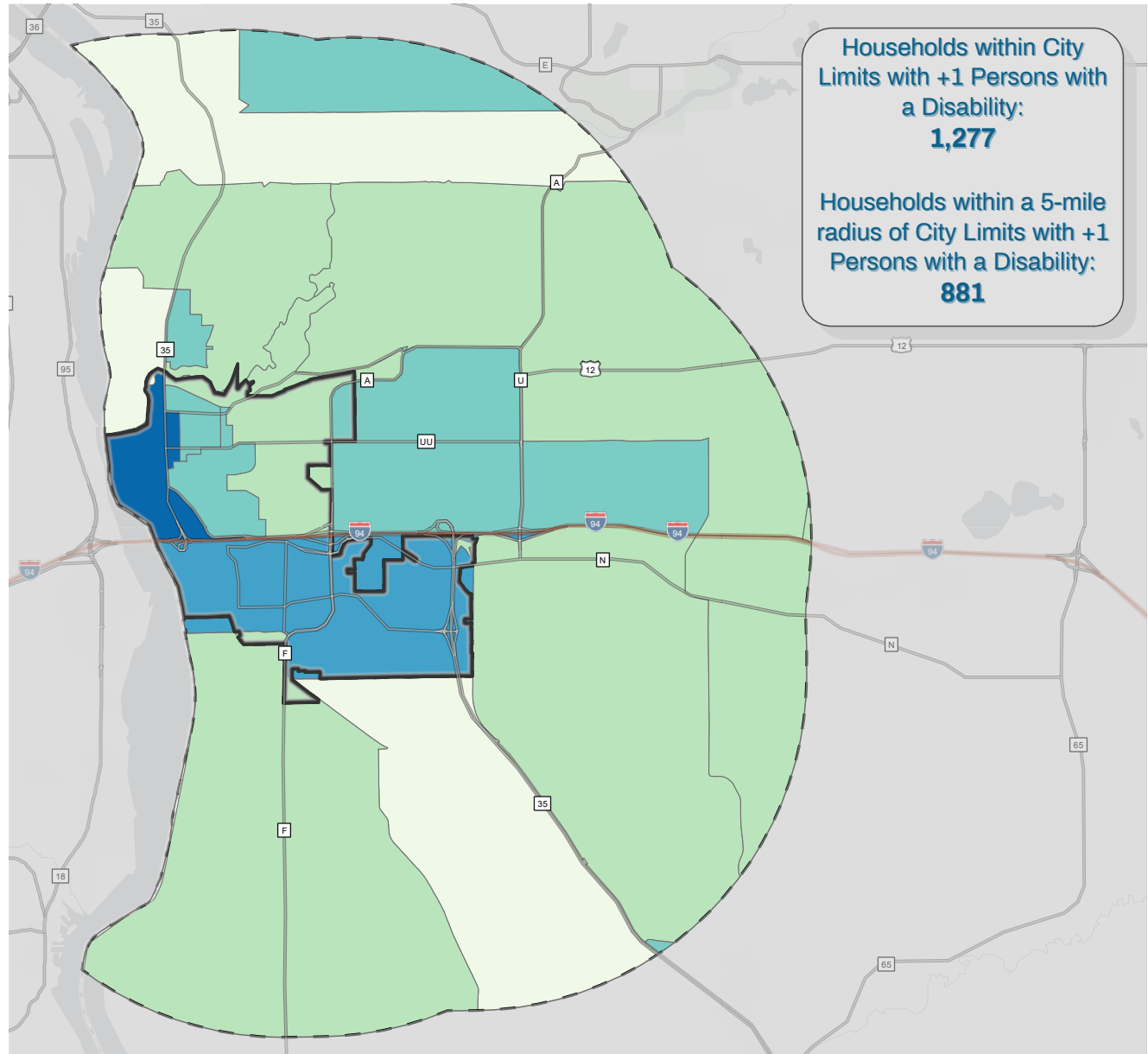
Percent of Households with 1+ Persons with a Disability



Data Sources:
WisDOA, WCWRPC, American
Community Survey ESRI



0 2.25 4.5 Miles










Demographics

Households without a Vehicle

The map to the right shows the percent of households without access to a vehicle in each block group in 2019. The household totals are estimates based off analysis completed on the 2019 American Community Survey (ACS) block level data. The total number of households without access to a vehicle within the 5-mile study area is approximately 102.

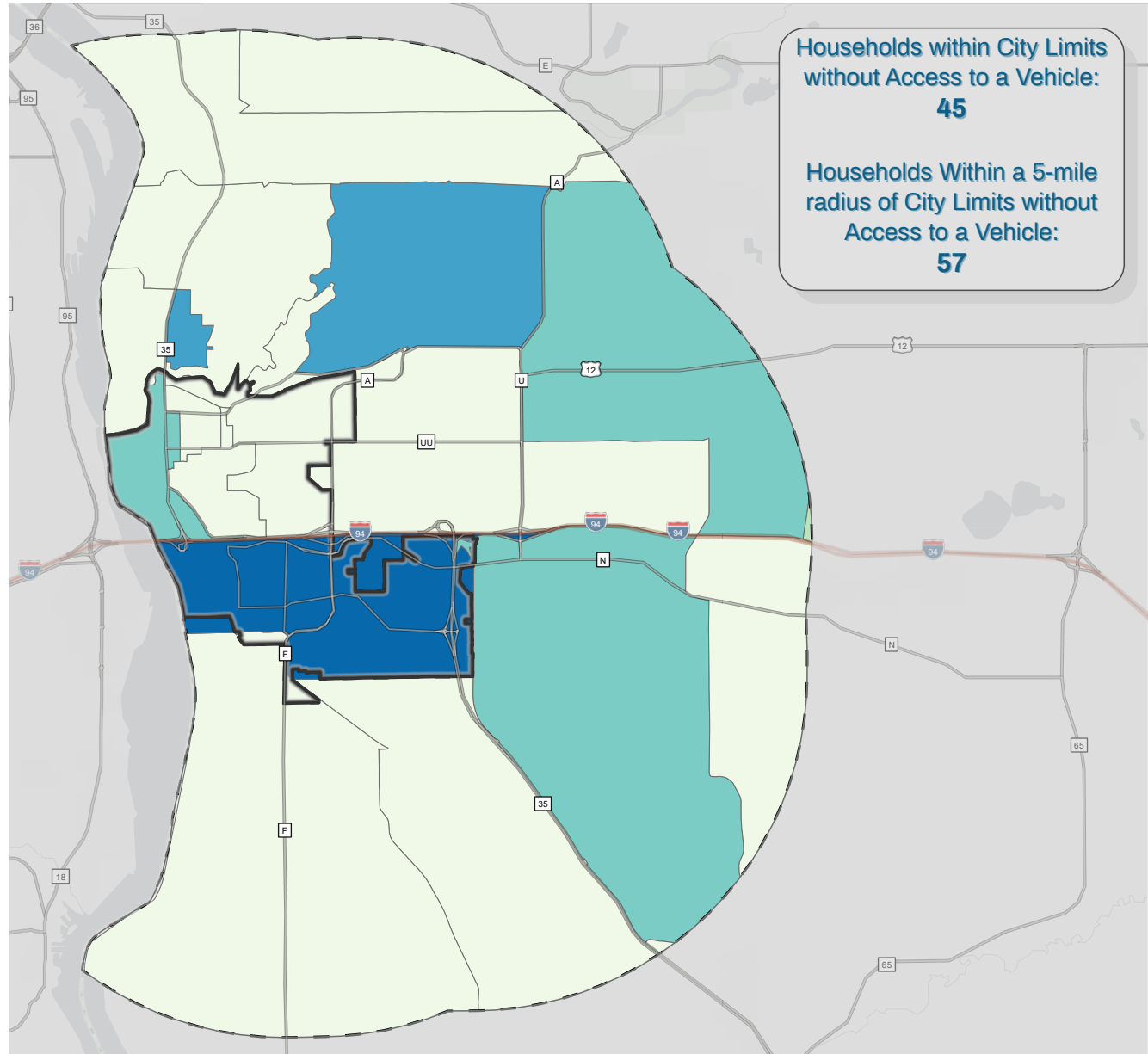
Number of Households without Access to a Vehicle

-  No households without a vehicle
-  1 - 7
-  8 - 15
-  16 - 20
-  21 - 33
-  Hudson City Limits
-  5 Mile Radius

Data Sources:
WisDOA, WCWRPC, American
Community Survey ESRI



0 2.25 4.5 Miles



Households in Poverty

The map to the right shows the percent of households living in poverty for each block group in 2019. The household totals are estimates based off analysis completed on the 2019 American Community Survey (ACS) block level data. The total number of households living below the poverty level is 682.

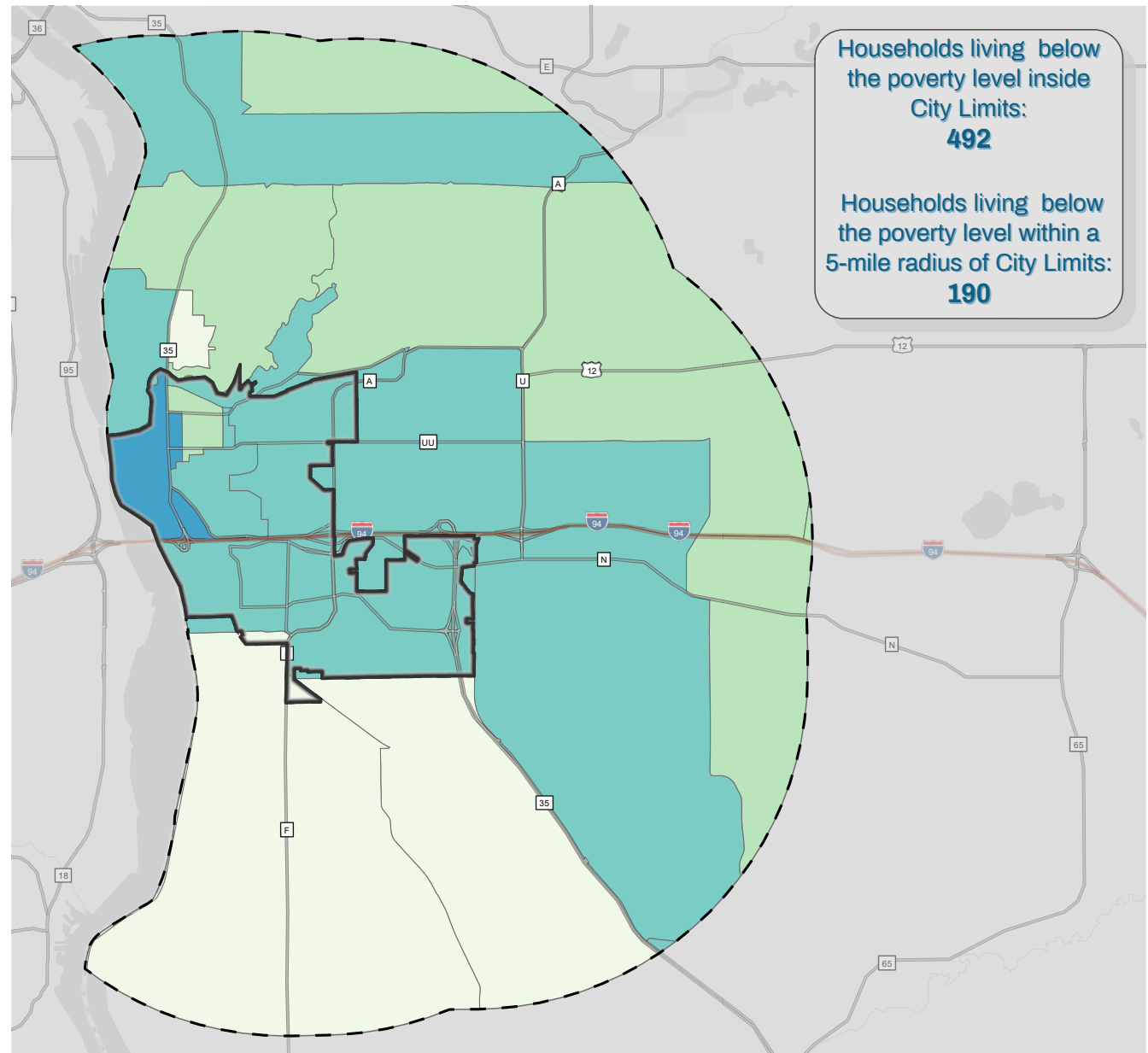
Percent of Households in Poverty

- No households in poverty
- 1% - 4%
- 5% - 10%
- 11% - 23%
- 24% - 36%
- Hudson City Limits
- 5 Mile Radius

Data Sources:
WisDOA, WCWRPC, American
Community Survey ESRI



0 2.25 4.5 Miles



Transit Solutions in Similar Regional Cities

In the 2020 study, the shared ride taxi services in River Falls, New Richmond, Chippewa Falls, and Wisconsin Rapids were considered for the peer analysis. For this update, Wisconsin Rapids has been omitted from the peer group as a significant outlier; it has 30% more residents, covers nearly twice the land area of Hudson, and provides a different type of service.

The ridership information used in this analysis is from 2019, the last full year prior to the significant drop in ridership caused by the COVID-19 pandemic. Ridership in many public transportation services has recovered significantly as of early 2022 (Chippewa Falls's service is now operating at over 90% of the pre-pandemic ridership and still rising), so using the 2019 data will provide the best information to estimate future ridership. The table on page 13 shows various statistics from the peer services.



Peer Communities Service Analysis



2019 Operating Statistics for Peer Communities

Peer Service Statistics	New Richmond	Chippewa Falls	River Falls
<i>Service Area</i>	Within 5-mile radius	City Limits	Within 5-mile radius
<i>City Area (square miles)</i>	10.79	11.32	7.19
<i>Number of Vehicles</i>	2	8	3
<i>Population</i>	10,079	14,731	16,182
<i>2019 Rides Provided</i>	15,999	59,292	33,444
<i>Rides per capita</i>	1.59	4.02	2.07
<i>Weekly Hours of Operations</i>	88.00	90.00	93.00
<i>Rides per Schedule hour</i>	3.50	12.67	6.92
<i>2019 Service Miles</i>	70,129	168,221	120,047
<i>2019 Service Hours</i>	7,253	15,536	9,166
<i>Trips per Service Hour</i>	2.21	3.82	3.65
<i>Provider charge per service hour, 2019</i>	\$34.50	\$30.97	\$34.15
<i>Minutes per ride</i>	27.2	15.7	16.4

Transit Service Analysis

Service Level Estimates for Hudson Transit

After discussions with City staff, some assumptions about service were made to build the service model for Hudson. The Hudson model is shown in the table on page 15 along with the historical service statistics from the peer systems.

Many variables impact the amount of services provided and the financial aspects of the service.

Service Area – The service area is assumed to include the City of Hudson and all areas in Wisconsin within five miles of the city limits. All rides would need to either begin or end within the city limits. A mileage surcharge is added for trips that have one end outside city limits. This service area was chosen to best serve the community by providing reliable transportation to vital goods and services. It can also provide workforce transportation for those living near, but not within, Hudson.

Number of Vehicles – To start the service, City staff chose to have two accessible vehicles available. This allows service to continue even if a vehicle is not available due to maintenance or repairs.

Rides Provided – The estimated number of rides provided in the model for Hudson is based on the service levels (rides per capita, population, land area, etc.) in the Peer Communities adjusted for the population, number of vehicles in service, land area of Hudson, and other factors detailed below.

Rides per capita – This estimate is based on the two closest peer services, River Falls and New Richmond. The Chippewa Falls data is based on a service with 8 vehicles in service, which leads to a larger

value for this measure.

Weekly Hours of Operations – City staff has chosen service that runs from 7 a.m. to 7 p.m., seven days per week. This schedule was chosen to provide the most useable service for workers, students, and those making medical and shopping trips. Retail, medical support, and hospitality employment is often scheduled with weekend hours leading to the decision to include regular service on Saturdays and Sundays. These Sunday hours also allow the service to be used for many worship services.

Service Hours – This is a measure of the combined number of hours all drivers are operating vehicles. Service hours are used to calculate the amount charged by a contracted service provider.

Trips per Service Hour – This counts the number of passengers transported during each service hour. A higher number translates into higher fare revenue per billable service hours. Several factors can reduce Trips per Service Hour: operating over larger geographic areas, transporting passengers who take longer to enter and exit the vehicles, and operating in areas with heavier traffic. Given the traffic in Hudson and the service area extended beyond the city limits, a lower, more conservative value was chosen.

Provider charge per service hour – Inflation has had a significant impact on the cost of providing transportation services and this increase in costs will be reflected in any upcoming contracts for all communities. This estimate is based on the current environment. Any events that influence fuel prices between now and contract bidding will have an impact on the per hour charge.

Transit Service Analysis



Hudson Service Estimates	New Richmond	Chippewa Falls	River Falls	Hudson
<i>Service Area</i>	Within 5-mile radius	City Limits	Within 5-mile radius	Within 5-mile Radius
<i>City Area (square miles)</i>	10.79	11.32	7.19	6.77
<i>Number of Vehicles</i>	2	8	3	2
<i>Population</i>	10,079	14,731	16,182	14,755
<i>Rides Provided</i>	15,999	59,292	33,444	29,510
<i>Rides per capita</i>	1.59	4.02	2.07	2.00
<i>Weekly Hours of Operations</i>	88.00	90.00	93.00	84.00
<i>Service Hours</i>	7,253	15,536	9,166	9,080
<i>Trips per Service Hour</i>	2.21	3.82	3.65	3.25
<i>Provider charge per service hour</i>	\$34.50	\$30.97	\$34.15	\$39.50

Peer services use 2019 data, Hudson information is an estimate for 2024

Expenses

Service expenses are made up of two main areas: capital costs and operating expenses. Capital costs include the cost of service vehicles and any infrastructure required to support the service. In the assumed service model, it is expected there will be no infrastructure costs. Operating expenses are divided between the cost of providing the service, in this case the amount charged by the contracted service provider, and administrative costs. For this exercise, the administrative expenses are assumed to be covered by existing City staff.

Capital Expenses

Owning the service vehicles and leasing them back to the service provider is a common approach cities use for shared ride taxi services. The Wisconsin Department of Transportation usually has a Human Service Vehicle contract that the City could use to purchase vehicles. Due to the continuing extreme fluctuations in vehicle pricing and availability, there is no current contract. For the most recent contract (which ended in May 2021), the modified minivans often used in share ride taxi services were contracted at just under \$40,000. Current estimates are that equivalent vehicles, if available, would cost \$50-55,000. Both overall vehicle shortages and the Buy America requirements for any vehicle bought using federal funds complicate securing

the needed vehicles. For this exercise, \$55,000 per vehicle is being used. Minivans have a four-year or 100,000-mile “useful life” – the length of service before a grant-funded vehicle is eligible to be replaced or taken out of service.

Number of service vehicles	2
Cost per vehicle	\$55,000
Total Capital Cost	\$110,000

Funding opportunities to offset this expense are discussed in the **Revenue Sources** section below.

Operating Expenses

Recent volatility in fuel pricing and high rates of inflation complicate forecasting what hourly rates would be received from contractors during a procurement effort. For this exercise, a conservative approach is taken to estimate the hourly charges that will be received during procurement. The highest current rate (New Richmond) was increased by approximately 15% to adjust for the above factors that are likely to impact bids for hourly costs.

Expenses



Projected expenses from the contracted service provider are just over \$350,000.

Annual Service Hours	9,080
<u>Cost per Service Hour</u>	<u>\$39.50</u>
Annual Service Expense	\$358,660

The administrative tasks that need to be completed include fiscal management, required state and federal reporting, state and federal grant applications and management, service marketing, and other duties. These duties are discussed in more detail in the **Governance and Adminsitration** section on page 22. The City may be able to absorb these duties using existing staff. Chippewa Falls has outsourced many administration duties to the West Central Wisconsin Regional Planning Commission. For this study, administrative expenses are not considered.

The funding opportunities to offset these expenses are discussed in the **Revenue Sources** section on the next page.

Revenue Sources

Revenue Sources

Funding comes from three main sources:

- » Passenger Fares
- » State and Federal Grants
- » Local Share

Passenger Fares

A review of the peer systems, as seen in the table below, shows a range of fare structures. Those fares have not changed in recent years. The populations who are eligible for discounted fares in this scenario include passengers with disabilities, the elderly, and students. Given recent inflation and the resistance to raising fares once established, it is suggested that fares be set above those of the peer group to help fund the service and to delay future fare increases.

<i>Peer System Fares and Proposed Fares</i>	New Richmond	Chippewa Falls	River Falls	Hudson
<i>Full Adult Fares</i>	\$ 3.00	\$ 2.75	\$ 2.75	\$ 3.50
<i>Discounted Fares</i>	\$ 2.50	\$ 1.75	\$ 1.50	\$ 2.50
<i>Out-of-town surcharge/mile</i>	\$ 2.00	na	\$ 1.50	\$ 2.50

State and Federal Grants

Expanding the ridership to the general population, as opposed to the previous study's consideration of only elderly and passengers with disabilities, changes the available funding sources. Additionally, the soon to be released Census Urbanized Areas (UZA) designation based on the 2020 U.S. Census may alter the landscape for funding (see sidebar on page 19). This update to the Transit Feasibility Study only covers the timeline to a launch date of January 2024, and the grant applications for that launch date are in late 2023. The potential future changes regarding the Metropolitan Council boundaries will not be considered for this study update.

Currently, Hudson would qualify for funding under the FTA's 5311 Formula Grants for Rural Areas (those less than 50,000 population) grant program for both capital expenses (such as vehicle purchases) and operating expenses. For capital expenses, the grants can cover up to 80% of the cost to purchase vehicles. For ongoing operating expenses, the 5311 grants can provide up to 50% of the anticipated operating expenses not covered by fare revenue ("The Operating Deficit").

Revenue Sources



The State of Wisconsin, under the 85.20 State Urban Mass Transit Operating Assistance program, would be anticipated to contribute a variable amount between 15-25% of the total anticipated system operating expenses.

Looking forward, if Hudson becomes part of the Metropolitan Council MPA, program eligibility for Federal funds for operating expenses would shift to FTA's 5307 Formula Grants for Urban Areas program. There are multiple options for how the 5307 funds would be allocated from the Metropolitan Council MPO which would require discussions among the involved parties: the Metropolitan Council, the States of Minnesota and Wisconsin, and the City of Hudson.

The State of Wisconsin Urban Transit Operating Assistance Program code requires that applicants for funding that are launching a new transit system must notify the WisDOT of their intention to start a new system by January 15th of the year preceding when funding will be used of. The earliest State 85.20 and Federal 5311 funding would be available to Hudson would be January 2024.

Local Share

The local financial contribution of the operating expenses, known as the Local Share, has traditionally ranged from 10-20% of the total operating expenses. For a city-based service, such as the one being considered for Hudson, the Local Share is often included in the City's operating budget. Other sources can be used when available, as long

Possible Inclusion in the Twin Cities Metropolitan Planning Area

Currently, the City of Hudson is not within the Federally defined Minneapolis-St. Paul Urbanized Area (UZA), although areas close to Hudson on the Minnesota side of the St. Croix River are within the UZA. Due to the continued development along the Interstate 94 corridor between Hudson and the Twin Cities, there is a significant possibility that Hudson will be included in the updated UZA designation after the results of the analysis based on the 2020 Census are released later in 2022. The Metropolitan Council, the MPO for the Twin Cities and surrounding areas, plans to complete the realignment of their Metropolitan Planning Area (MPA) in early 2024.

If Hudson is included in the MPA in the future, the funding sources will change from the 5311 program to the 5307 Urban Area Formula Grant program for operating funds and the 5339 Bus and Bus Facility Grant program for capital funds.

as those funds do not come from federal grants (there are some exceptions). Some services have contributions from other government entities, private business, educational institutions, health care providers, or other transit supporters.

Revenue Sources

Sample Budget for Operations

Using the Operating Expense estimate of \$358,660 from the “Operating Expenses” section on page 16, the below funding scenario gives an estimate of what the revenue funding source breakout might look like. One must be cautious when using these numbers since the actual funding available in any given year is not usually finalized until the spring of that year. In recent years, additional Federal funding has been available, but that level of funding has not always been provided.

<i>Estimated 2024 System Operating Funding</i>		Funding % by Source
Annual Service Cost	\$358,660	
Annual Fare Revenue	\$ 95,908	27%
Operating Deficit	\$262,753	
Federal 5311 Grant	\$131,376	37%
State 85.20 Tier C Grant	\$65,887	18%
Local Share	\$65,490	18%

Revenue Sources



Governance and Administration

Governance

Wisconsin Statute 66.1021 grants cities planning to launch a local transit system the ability to establish a “Transit Commission”. This Commission must have at least three members appointed by the mayor and approved by the common council. The powers and responsibilities of the Transit Commission can vary widely as granted by the City. The duties often include providing recommendations to the City on such areas as fares, hours of service, budgets, and marketing.

Alternatively, a city may have a city department oversee transit services. If that is the case, the department head would report to the city Common Council on the transit system.

The Wisconsin Statute, the WisDOT Administrative Codes, and an example Transit Commission ordinance from The City Manitowic are included in Appendix A.

Administration

The day-to-day administration of the transit system is often the duty of city staff. Below is a partial list of administrative duties:

- » Compile and submit annual State and Federal Operating Assistance Funding Applications.
- » Prepare State and Federal quarterly reports - operating statistics, expenses and revenues.
- » Assure program operates in conformance with all State and Federal regulations.
- » Maintain all contracts between: the City and Federal Transit Administration, the City and State, and the City and the third-party service provider.
- » Prepare and post/publish all required notices and conduct public meetings.
- » Maintain all program records for the FTA’s Triennial Reviews.
- » Maintain records and provide records as needed for annual State audits.
- » Prepare and submit annual budget documents proposals for City approval.



- » Staff and administer Transit Commission.
- » Administer annual budget.
- » Attend required State and Federal training meetings and conferences.
- » Maintain records and provide records as needed for annual City audits.
- » Execute any contract and budget negotiation with service provider in non-bidding years.
- » Provide daily face-to-face consumer functions of the transit program, such as any and all certifications of riders and companions/assistants eligibility.
- » Respond to and work with the service provider to resolve client complaints.
- » Monitor contractor performance, insuring conformance with all State and Federal regulations.
- » Facilitate the purchase of vehicles with Federal and local funding, coordinated through WisDOT.
- » Dispose of vehicles which have been taken out of service in accordance with State and Federal requirements.
- » Prepare and conduct all service and vehicle procurements in accordance with State and Federal requirements.
- » Requisition and receive all State and Federal funding.
- » Make all payments to service provider and other vendors.

Next Steps

The below steps are a partial list of tasks to be completed and their approximate dates to launch a shared ride taxi program in January 2024. If a launch in 2023 is pursued, the dates would need to be compressed to accomodate the earlier schedule.

Action	Timing	Done by Whom	Governing Rules
Have the Common Council approve the launching of a municipal transit system.	Sep-22	Common Council	WisDOT Trans 4.03
If a Transit Commission will be established to oversee the transit system, have the Common Council vote to do so.	Jan-23	Common Council	Wisconsin 66.1021
By January 15 th of the year prior to establishing service, notify the Wisconsin Department of Transportation (WisDOT) of the City's intention to establish a municipal transit system. Include notification of the intention to apply for funding under two programs: the Federal Transit Administration (FTA) Rural and Small Urban 5311 program and the Wisconsin 85.20 Urban Mass Transit program.	Jan-23	City of Hudson	WisDOT Trans 4.07(6)
Establish Service Agreement with St. Croix County for service in the 5-mile buffer zone	Jun-23	City of Hudson	Wisconsin 66.1021(12)
Have estimated Local Match included in annual budget.	Jul-23	Common Council	
Develop Request For Proposals (RFP) for a Service Provider and publish RFP.	Jul-23	City of Hudson	WisDOT Trans 4.04(4)

Next Steps



Action	Timing	Done by Whom	Governing Rules
Rank responsive bids on the RFP, meet with top respondent to negotiate contract.	Aug-23	City of Hudson	WisDOT Trans 4.04(4)
Have the Common Council (and Transit Commission if established) approve the Service Contract.	Aug-23	Common Council/Transit Commission	WisDOT Trans 4.04(4)
Initiate public marketing to City residents.	Aug-23	City of Hudson/Transit Commission	
Prepare Transit Development Program.	Sep-23	City of Hudson/Transit Commission	WisDOT Trans 4.09(1)
Establish Performance Goals for next 4 years.	Sep-23	City of Hudson/Transit Commission	WisDOT Trans 4.09(2)
Prepare Transit Management Plan for upcoming year {Trans 4.09(3)}.	Sep-23	City of Hudson/Transit Commission	WisDOT Trans 4.09(3)
Secure vehicles through donation or purchase.	Sep-23	City of Hudson/Transit Commission	
Submit Wisconsin Department of Transportation <u>Public Assistance Program</u> (PTAP) application for funding (due in December of preceding year). Attach Transit Development Plan, Performance Goals, and Transit Management Plans developed in earlier steps.	Dec-23	City of Hudson/Transit Commission	WisDOT Trans 4.07
Launch service.	Jan-24	City of Hudson/Transit Commission	

Supporting documentation including a sample Transit Commission ordinance and Wisconsin rules and regulation follow in Appendix A.

Enabling Ordinance for the Manitowoc Transit Commission

3.210 Transit Commission.

(1) There is hereby created the Manitowoc Transit Commission. The Commission shall consist of seven voting members: a member of the Common Council and six citizen members appointed pursuant to MMC 3.270.

(2) Powers and Duties. The Commission shall have the power and duty to investigate, advise and report to the Mayor and Common Council any suggestions and recommendations regarding public transit in the City. The Commission is also empowered to take steps to educate the public on the importance and availability of public transit. The Commission shall act as an advisory committee to the Public Infrastructure Committee and make formal recommendations to the Committee about transit-related items such as fare increases, route structure, revenue ideas, events, and transit ideas. The Common Council may assign additional duties to the Commission.

(3) Organization. The Commission shall choose a Chairman and Secretary on an annual basis. The Secretary shall keep minutes of the Commission's meetings and make reports to the Common Council. The annual meeting of the Commission shall be held in January. The Commission may schedule additional meetings. Four members of the Commission shall constitute a quorum. The Commission is empowered to establish additional by-laws for the governing of its meetings.

[Ord. 20-564 § 12, 2020; Ord. 16-430 § 12, 2016; Ord. 13-180 § 11, 2013; Ord. 11-148 § 1, 2011]

Wisconsin 66.1021

City, village and town transit commissions.

(1) A city, village or town may enact an ordinance for the establishment, maintenance and operation of a comprehensive unified local transportation system, the major portion of which is located within, or the major portion of the service of which is supplied to the inhabitants of, the city, village or town, and which system is used for the transportation of persons or freight.

(2) The transit commission shall be designated "Transit Commission" preceded by the name of the enacting city, village or town.

(3) In this section:

(a) "Comprehensive unified local transportation system" means a transportation system comprised of motor bus lines and any other local public transportation facilities or freight transportation facilities, the major portions of which are within the city, village or town.

(b) "Transit commission" or "commission" means the local transit commission created under this section.

(4) The transit commission shall consist of not less than 3 members to be appointed by the mayor or village board or town board chairperson and approved by the common council or village or town board, one of whom shall be designated as chairperson.

(5)

(a) The first members of the transit commission shall be appointed for staggered 3-year terms. The term of office of each member appointed after the first members of the transit commission shall be 3 years.

(c) No person holding stocks or bonds in any corporation subject to the jurisdiction of the transit commission, or who is in any other manner pecuniarily interested in any such corporation, may be a member of nor be employed by the transit commission.

(6) The transit commission may appoint a secretary and employ accountants, engineers, experts, inspectors, clerks and other employees and fix their compensation, and purchase furniture, stationery and other supplies and materials, that are reasonably necessary to enable it to perform its duties and exercise its powers.

(7)

(a) The transit commission may conduct hearings and may adopt rules relative to the calling, holding and conduct of its meetings, the transaction of its business, the regulation and control of its agents and employees, the filing of complaints and petitions and the service of notices.

(b) For the purpose of receiving, considering and acting upon any complaints or applications that may be presented to it or for the purpose

WISCONSIN 66.1021 (CONTINUED)

of conducting investigations or hearings on its own motion the transit commission shall hold regular meetings at least once a week except in the months of July and August and special meetings on the call of the chairperson or at the request of the common council or village or town board.

(c) The transit commission may adopt a seal, of which judicial notice shall be taken in all courts. Any process, writ, notice or other instrument that the commission may be authorized by law to issue shall be considered sufficient if signed by the secretary of the commission and authenticated by the commission's seal. All acts, orders, decisions, rules and records of the commission, and all reports, schedules and documents filed with the commission may be proved in any court by a copy of the documents that is certified by the secretary under the seal of the commission.

(8) Except as otherwise provided in this subsection, the jurisdiction, powers and duties of the transit commission shall extend to the comprehensive unified local transportation system for which the commission is established including any portion of the system extending into adjacent or suburban territory that is outside of the city, village or town not more than 30 miles from the nearest point marking the corporate limits of the city, village or town. The jurisdiction, powers and duties of a transit commission providing rail service shall extend to the comprehensive unified local rail transportation system for which the commission is established including any portion of the system that extends into adjacent or suburban territory that is outside of the city, village or town and in an adjoining state whose laws permit, subject to the laws of that state but subject to the laws of this state in all matters relating to rail service.

(9) The initial acquisition of the properties for the establishment of, and to comprise, the comprehensive unified local transportation system is subject to s. 66.0803 or ch. 197.

(10)

(a) Any city, village, town or federally recognized Indian tribe or band may by contract under s. 66.0301 establish a joint municipal transit commission with the powers and duties of city, village or town transit commissions under this section. Membership on the joint transit commission shall be as provided in the contract established under s. 66.0301.

(b) Notwithstanding any other provision of this section, no joint municipal transit commission under par. (a) may provide service outside the corporate limits of the parties to the contract under s. 66.0301 which establish the joint municipal transit commission unless the joint municipal transit commission receives financial support for the service under a contract with a public or private organization for the service. This paragraph does not apply to service provided by a joint municipal transit commission outside the corporate limits of the parties to the contract under s. 66.0301 which establish the joint municipal transit commission if the joint municipal transit commission is providing the service on April 28, 1994, without receiving financial support from a public or private organization for the service, and elects to continue the service.

WISCONSIN 66.1021 (CONTINUED)

(11)

(a) In lieu of providing transportation services, a city, village or town may contract with a private organization for the services.

(b) Notwithstanding any other provision of this section, no municipality may contract with a private organization to provide service outside the corporate limits of the municipality unless the municipality receives financial support for the service under a contract with a public or other private organization for the service. This paragraph does not apply to service provided under par. (a) outside the corporate limits of a municipality if a private organization is providing the service on April 28, 1994, without receiving financial support from a public or private organization for the service, and the municipality elects to continue the service.

(12) Notwithstanding any other provision of this section, no transit commission may provide service outside the corporate limits of the city which establishes the transit commission unless the transit commission receives financial support for the service under a contract with a public or private organization for the service. This subsection does not apply to service provided by a transit commission outside the corporate limits of the city which establishes the transit commission if the transit commission is providing the service on April 28, 1994, without receiving financial support from a public or private organization for the service, and elects to continue the service.

History: 1975 c. 224; 1977 c. 418; 1981 c. 247; 1983 a. 189, 266; 1993 a. 184, 246, 279, 491; 1999 a. 150 s. 606; Stats. 1999 s. 66.1021.

Although the statutes relating to public utilities and transit commissions describe certain attributes the governing commissions must have, these statutes do not, by their own force, call the commission into existence or endow it with authority independent of what the statutes confer on the municipality. A commission has no authority but for what it received from the municipality, and the municipality has no authority to legislate contrary to the boundaries established by the statutes. This section does not directly grant a transit commission any authority, but it does identify some of the authority the commission must be furnished by the municipality's enacting ordinance. *Wisconsin Carry, Inc. v. City of Madison*, 2017 WI 19, 373 Wis. 2d 543, 892 N.W.2d 233, 15-0146.

Department of Transportation Administrative Code, Chapter Trans 4

Chapter Trans 4

URBAN MASS TRANSIT OPERATING ASSISTANCE PROGRAM

Trans 4.01 Purpose and scope.

Trans 4.02 Definitions.

Trans 4.03 Appropriateness of urban areas.

Trans 4.04 Project costs.

Trans 4.05 State share of eligible project costs.

Trans 4.06 Distribution of state aids.

Trans 4.07 Application for state aids.

Trans 4.08 State aid grant agreements.

Trans 4.09 Planning requirements.

Trans 4.10 Management performance audits.

Trans 4.01 Purpose and scope. The purposes of this chapter are to establish the department of transportation's administrative interpretation of s. 85.20, Stats., and to prescribe administrative policies and procedures for implementing the urban mass transit operating assistance program.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; am. Register, May, 1982, No. 317, eff. 6-1-82.

Trans 4.02 Definitions. In this chapter:

(1) "Capital equipment" means non-expendable personal property for use in the provision of public transit service having all of the following:

(a) An anticipated useful life of one year or more.

(b) An acquisition cost of \$5,000 or more per unit.

(1d) "Department" means the Wisconsin department of transportation.

(1m) "Eligible applicant" means a local public body in an urban area which is served by an urban mass transit system incurring an operating deficit.

(1o) "Eligible project cost" means an expense that an eligible applicant incurs in the operation of an urban mass transit system for which it is eligible to receive operating assistance authorized under s. 85.20, Stats.

(1p) "Job access and reverse commute project" means a transportation project to finance planning, capital, or operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and low-income individuals to and from jobs and employment-related activities, including transportation projects that facilitate the provision of public transportation services from rural and urbanized areas to suburban employment locations.

(1t) “Joint-use facility” means a facility that is shared by a mass transit system and at least one other business.

(2) “Local public body” means one of the following:

(a) A county or a municipality, as defined in s. 59.001 (3), Stats., or an agency thereof;

(b) A transit or transportation commission or authority, or a public corporation established by law or by interstate compact to provide mass transportation services and facilities;

(c) Two or more of any such bodies acting jointly under s. 66.0301, Stats.

(2m) “ Low-income individual” means an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in Section 673 (2) of the Community Services Block Grant Act, 42 USC 9902 (2), including any revision required by that section.

(3) “Mass transit system” has the meaning given in s. 85.20 (1) (e), Stats., and may include specialized transportation subsystems for seniors and individuals with disabilities, but does not include transportation services exclusively for a subgroup of the general public.

(3g) “ Operating deficit” means the amount by which the total operating expenses incurred in the operation of a mass transit system exceeds the amount of operating revenues derived therefrom.

(3r) “ Operating revenues” means income that accrues to a mass transit system by virtue of its operations, excluding any income derived from the sale of charter service or the hauling of freight.

(4) “Private provider” means a privately owned entity that provides public transit service.

(4g) “ Project” means operation of an urban mass transit system, or subsystem thereof, during a project year.

(4r) “ Project year” means a calendar year in which an eligible applicant executes a public transit project receiving funding under s. 85.20, Stats.

(5) “Public provider” means any provider of mass transit service not defined as a private provider.

(5m) “Revenue hours” means the annual number of hours for which a mass transit system’s revenue passenger vehicles offer advertised public transit service, plus the annual sum of any additional hours during which these vehicles transport revenue paying passengers and, for shared-ride taxicab services, during which they travel to a base destination at the end of daily operation or undergo a pre-trip inspection.

(6) “Revenue passenger vehicle” means a vehicle used to transport revenue paying passengers on a mass transit system.

(6m) “Secretary” means the secretary of the Wisconsin department of transportation.

(7) “Shared-ride taxicab” means a taxicab legally able to simultaneously transport passengers having different origins, different destinations, or both.

(8) “Subsystem” means that part of a transit system which provides special services to elderly or disabled persons.

(8m) “Unlinked trip” means a trip beginning when a passenger boards the vehicle and ending when the passenger alights the vehicle, even if the passenger transfers to another vehicle to reach a destination.

(9) “Urban area” means any area that includes a city or village having a population of 2,500 or more or an area that includes 2 American Indian reservations and that is served by a mass transit system operated by a transit commission. The department shall determine the population of a city or village within an urban area using the most recent estimates prepared by the department of administration.

(10) “Urban mass transit system” means a mass transit system providing at least two-thirds of its revenue miles of service within the boundaries of an urban area.

DEPARTMENT OF TRANSPORTATION ADMINISTRATIVE CODE, CHAPTER TRANS 4 (CONTINUED)

(10g) “Urbanized area” means an area of the state so defined by the U.S. bureau of the census.

(10r) “Useful life” means a minimum time period, specified by the department, during which an asset is expected to remain in suitable condition for continued use in its intended capacity.

(11) “User-side subsidy” means financial assistance provided directly to a user of a mass transit system in the form of a voucher provided to the user by the local public body for use in payment of a fare, or a portion of a fare, for a trip taken on an urban transit system.

(12) “Welfare recipient” means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act, 42 USC 601 et seq., at any time during the previous three-year period.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; am. (1), (3) and (6), Register, May, 1982, No. 317, eff. 6-1-82; renum. (3) to (6) to be (10), (3), (9) and (8) and am. (3), cr. (4) to (7) and (11), Register, October, 1986, No. 370, eff. 11-1-86; am. (9), Register, August, 1989, No. 404, eff. 9-1-89; r. and recr. (9), Register, December, 1989, No. 408, eff. 1-1-90; cr. (intro.), am. (1), (3) and (8), Register, April, 1993, No. 448, eff. 5-1-93; renum. (1) to be (1m) and cr. (1), (1r), (5m), (6m) and (8m), Register, November, 2000, No. 539, eff. 12-1-00; correction in (2) (c) made under s. 13.92 (4) (b) 7., Stats., Register March 2012 No. 675; CR 18-065: renum. (1) to (1d), cr. (1), (1h), (1p), renum. (1r) to (1t) and am., am. (2) (intro.), (a), (b), cr. (2m), r. and recr. (3), cr. (3g), (3r), am. (4), cr. (4g), (4r), am. (5m), (7), (8m), cr. (10g), (10r), am. (11), cr. (12) Register October 2020 No. 778, eff. 11-1-20; renum. (1h) to (1o) under s. 13.92 (4) (b) 1., Stats., Register October 2020 No. 778; correction in (2) (a) made under s. 35.17, Stats., Register October 2020 No. 778.

Trans 4.03 Appropriateness of urban areas. All urban areas shall be deemed appropriate for an urban mass transit system for purposes of receiving state aid, except that no city or village may receive state aid for a municipal bus transit system unless the system is approved by action of its governing body and by referendum vote of its electorate pursuant to s. 66.0803 (2) (a), Stats.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; r. and recr. Register, May, 1982, No. 317, eff. 6-1-82; emerg. am. (2), eff. 11-18-83; am. (2), Register, April, 1984, No. 340, eff. 5-1-84; r. and recr. Register, December, 1989, No. 408, eff. 1-1-90; correction made under s. 13.92 (4) (b) 7., Stats., Register March 2012 No. 675; CR 18-065: am. Register October 2020 No. 778, eff. 11-1-20.

Trans 4.04 Project costs.

(1) Eligible project costs are limited to the operating expenses of an urban mass transit system, including labor, fringe benefits, materials and supplies, utilities, insurance, purchased transportation services, license fees and lease expenses. For publicly owned mass transit systems, the only wages and fringe benefits that shall be considered eligible project costs are those of employees whose activities are related to the day-to-day operation of the system. For employees who do not work full time on transit system operations, only expenses related to that portion of their time spent on transit shall be considered eligible project costs. For urban mass transit services provided by a private provider operating under contract with an eligible applicant, eligible project costs may include profit, return on investment, interest on short term debt obligation, and depreciation of facilities and capital equipment used directly for the provision of urban mass transit services, provided that the facilities and equipment were acquired without benefit of public financial assistance. If a facility is a joint-use facility,

depreciation of only that portion of the facility used in the provision of urban mass transit services is an eligible project cost. For shared-ride taxicab services provided by private providers operating under contract with an eligible applicant, eligible project costs may include administrative fees that the eligible applicant incurs in the course of satisfying state and federal requirements.

(2) Eligible project costs may include the costs of user-side subsidies provided to individuals with disabilities. User contributions to the user-side subsidy service are considered eligible project costs in accordance with s. 85.20 (3m) (b), Stats.

(3) If an eligible applicant contracts for mass transit service with a private provider, it shall execute a formal written contract with the provider. Only costs incurred under a properly executed written contract shall be considered eligible project costs.

(4)

(a) If an eligible applicant contracts with a private provider to operate an urban mass transit system on its behalf, it shall do so using the competitive proposal process set forth in par. (b), and eligible project costs are limited to those costs associated with the proposal accepted by the eligible applicant.

(b) Eligible applicants shall use the following competitive bid process:

1. An eligible applicant shall prepare a “request for proposal” document. The document shall request expressions of interest from providers, and describe essential provider qualifications and criteria for evaluating those qualifications. The eligible applicant shall post the document, along with any ancillary documents, on the department of administration’s statewide goods and services electronic purchasing system website. The eligible applicant shall also cause an appropriate notice of the request for proposal to be published in a local newspaper of general circulation.

2. If only one qualified provider expresses interest in providing the urban mass transit service, the eligible applicant may negotiate a contract with that provider. The negotiated contract shall be subject to the department’s approval.

3. If 2 or more qualified providers express interest in providing the urban mass transit service, the eligible applicant shall rank each provider on the criteria set forth in the request for proposal.

4. When a publicly owned mass transit system responds to a request for proposal issued by a local public body under subd. 3., the cost proposal shall include an analysis of fully allocated costs if so required by the request for proposal. The analysis shall include all of the system’s costs measured in accordance with generally accepted accounting principles, regardless of whether these costs are otherwise paid for through other public financial assistance, including operating subsidies and capital grants. When the public body which owns the mass transit system has prepared a cost allocation plan in accordance with 2 CFR 200, costs of the mass transit system shall be allocated in accordance with that plan. When the mass transit system has not prepared a cost allocation plan in accordance with 2 CFR 200, costs which are allocable to the mass transit system shall be determined using the principles outlined in 2 CFR 200. Expenses of the mass transit system shall be allocated to segments of service considered using the following categories:

a. Costs that depend on the number of vehicle hours operated, including particular operators’ salaries and fringe benefits.

b. Costs that depend on the number of vehicle miles traveled, including fuel costs, maintenance costs and maintenance personnel salaries and fringe benefits.

c. Costs that depend on the maximum number of vehicles that are in service during the day, including administrative and capital costs.

6. The proposed costs in an awarded bid shall be reduced by an allowance for operating and capital costs subsidized through other state and

DEPARTMENT OF TRANSPORTATION ADMINISTRATIVE CODE, CHAPTER TRANS 4 (CONTINUED)

federal grants.

7. An eligible applicant shall establish an appropriate procedure for resolving bid proposal complaints and conflicts, and shall include the procedure in its request for proposal.

(c) If a local public body contracts for urban mass transit service with a private provider on the basis of negotiated procurement, eligible project costs may include depreciation of facilities and capital equipment used directly for the provision of urban mass transit services, provided that the facilities and equipment were acquired without benefit of public financial assistance. If a facility is a joint-use facility, depreciation only of that portion of the facility used in the provision of urban mass transit services is an eligible project cost.

(5) The following expenses are not eligible project costs:

(a) Depreciation and amortization, except as authorized by sub. (1).

(aa) Job access and reverse commute project expenses, except in cases where the recipient's grant agreement with the department explicitly authorizes use of funds for such project(s).

(b) Taxes paid which are subject to rebate.

(c) Interest expense, except as authorized under sub. (1).

(d) Profit, except as authorized by sub. (1).

(e) Lease-purchase payments.

(f) Lease payments to a related party which are made under less than an arm's length agreement. Only actual eligible project costs of owning the property, including depreciation and taxes, shall be allowed, as authorized under sub. (1).

(g) Lease payments for revenue passenger vehicles unless, and only for the term, pre-approved by the department.

(h) Entertainment costs.

(i) Fines and penalties.

(j) Bad debts.

(k) Charitable deductions.

(L) User-side subsidies, except as authorized by sub. (2).

(m) Payments to members of advisory committees, transit commissions or transit boards.

(n) Federal, state and local income taxes.

(o) Charter-related expenses. Such expenses shall be considered to be equal to the revenue received directly from the provision of charter service, except when charter revenues exceed 10% of the total annual operating revenues of the mass transit system. When charter revenues exceed 10% of the total annual operating revenues of the mass transit system, charter-related expenses shall be determined in accordance with a cost allocation plan approved by the department.

(p) Expenses related to contractual agreements for special planning studies.

(q) Expenses for general public administration functions or activities of regional or local entities that are not related to the provision of mass transit service.

(r) Expenses for contingencies or capital acquisitions, including contributions to a capital reserve account or fund. The cost of materials and

supplies utilized in facility or vehicle repairs, regardless of cost, shall be considered eligible project costs so long as such repairs involve replacement of existing items.

(s) For mass transit systems operated under contract by a private provider, the wages and fringe benefits of any public employees, except those employees involved in administration of the contract or in monitoring the performance of the provider.

(t) Fees imposed upon a contracted service provider by the recipient public body, such as taxicab license fees.

(u) Return on investment, except as authorized by sub. (1). Return on investment shall be a fixed amount and may not exceed an amount calculated by applying the interest rate the secretary of the treasury specifies under 50 USC App. 1215 (b) (2) as applicable to the period ending on December 31 of the year prior to the project year to the net book value of the private provider's equipment and facilities used in providing the contracted for transportation service.

(v) Expenses that are directly offset by revenues that may include, but are not limited to, expenses related to hauling freight or package delivery, cash discounts or refunds, tax rebates including fuel tax rebates, insurance proceeds and resale proceeds. Such expenses shall be considered to be equal to the revenue derived directly from their incurrence.

(w) Franchise fees paid by the recipient public body to a private provider.

(x) Expenses for the direct operation of private or public van pools, except administrative and marketing expenses associated with the public van pool program.

(y) Expenses that are paid for with federal transit administration capital funds authorized under 49 CFR 53.

(z) For mass transit systems providing services outside of their jurisdictional boundaries, expenses related to services which duplicate those provided by another mass transit system in terms of geographic area served, hours operated, frequency of service and passenger boarding and alighting locations. Decisions on duplication of service shall be made by the department, after consultation with the affected public bodies.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; r. and recr. (1), am. (2), (3) and (4), Register, May, 1982, No. 317, eff. 6-1-82; emerg. r. and recr. eff. 11-18-83; r. and recr. Register, April, 1984, No. 340, eff. 5-1-84; am. (1), renum. (2) to be (5) and am. (2) (a), (d) and (l), cr. (2) to (4), Register, October, 1986, No. 370, eff. 11-1-86; am. (5) (f) and (o), renum. (4), (5) (q), (r), (s) and (t) to be (4) (a), (5) (p), (q), (r) and (s) and am. (4) (a), cr. (4) (b) and (c) and (5) (t), (u), (v) and (w) and r. (5) (p), Register, August, 1989, No. 404, eff. 9-1-89; am. (2), (4) (b) 1. and (5) (r), cr. (5) (x), Register, April, 1993, No. 448, eff. 5-1-93; am. (1), (5) (a), (c), (d), (f), (L), (s) and (t), r. (3), renum. (4) (b) 4. and 5. to be (4) (b) 5. and 7. and cr. (4) (b) 4., 6. and (5) (y) and (z), Register, November, 2000, No. 539, eff. 12-1-00; CR 18-065: am. (1), (2), cr. (3), r. and recr. (4) (a), am. (4) (b) 1. to 3., 4. (intro.), a., r. (4) (b) 5., am. (4) (b) 6., 7., (c), cr. (5) (aa), am. (5) (f), (g), (o), (q) to (u), (w), (x), (z) Register October 2020 No. 778, eff. 11-1-20.

Trans 4.05 State share of eligible project costs.

(1) The department may audit all public and private providers of urban mass transit services receiving state aids under the urban mass transit operating assistance program. The audits shall be the basis for computing the maximum share of state and federal aids each eligible applicant can apply against operating deficits for each state aid contract period. If a private provider is a subsidiary corporation, the department may audit both the subsidiary and the parent corporation. The department shall conduct audits as follows:

(a) For all urban mass transit systems participating in the state aid program, except those in which a local public body contracts for services with a private provider on the basis of competitive bids, the department shall audit the actual operating revenues and operating expenses for

DEPARTMENT OF TRANSPORTATION ADMINISTRATIVE CODE, CHAPTER TRANS 4 (CONTINUED)

each state aid contract period. Audits shall be conducted in accordance with generally accepted governmental auditing standards.

(b) For mass transit systems in which a local public body contracts for services with a private provider on the basis of competitive bids, the department shall conduct contract compliance audits. Additionally, the department shall audit any fees the local public body charges to the department for administration of the private provider's service.

(2) The state's share of eligible project costs shall be in accordance with s. 85.20 (4m), Stats.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; r. and recr. Register, May, 1982, No. 317, eff. 6-1-82; emerg. r. and recr., eff. 11-18-83; r. and recr. Register, April, 1984, No. 340, eff. 5-1-84; am. (1) (a) and (4), Register, October, 1986, No. 370, eff. 11-1-86; renum. (1), (2), (3), and (4) to be (2), (3), (4) and (5), cr. (1), Register, August, 1989, No. 404, eff. 9-1-89; am. (2) (intro.) and (a), cr. (2) (c), Register, August, 1990, No. 416, eff. 9-1-90; am. (2) (a), Register, April, 1993, No. 448, eff. 5-1-93; am. (1) (b) and r. and recr. (2), Register, November, 2000, No. 539, eff. 12-1-00; CR 18-065: am. (1), r. (3) to (5) Register October 2020 No. 778, eff. 11-1-20.

Trans 4.06 Distribution of state aids.

(1) The department shall distribute the state appropriations for this program among eligible applicants in accordance with the procedures set forth in s. 85.20 (4m), Stats., and also in accordance with provisions of the annual state grant agreements executed between each applicant and the department.

(2) Except as provided in sub. (3), each eligible applicant shall provide a local contribution, exclusive of user fees, toward operating expenses in an amount equal to at least 20% of all state allocations to that applicant under this chapter. No federal or state categorical financial aids or passenger revenues are allowed as part of the local contribution. No part of the local contribution may be paid by a private provider contracting with the applicant public body. The local contribution shall be determined by audit and calculated by subtracting passenger revenues, federal aids and state aids from eligible project costs.

(3) Subsection (2) does not apply to an eligible applicant that is served exclusively by a shared-ride taxicab system.

(4) State aids shall be paid to a recipient on a recurring basis, and no more than 4 times annually. If the department's audit establishes that the state aid payment to a recipient has exceeded any limitation on the state's share of eligible project costs under s. 85.20, Stats., then the recipient shall refund to the department an amount sufficient to reduce the state aids to an amount that is in conformity with s. 85.20, Stats.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; r. and recr. Register, May, 1982, No. 317, eff. 6-1-82; emerg. am. (2), (3) and (4), eff. 11-18-83; am. (2), (3) and (4), Register, April, 1984, No. 340, eff. 5-1-84; am. (2) to (4), Register, October, 1986, No. 370, eff. 11-1-86; am. (2) and (3), renum. (4) to be (6) and am., cr. (4) and (5), Register, August, 1990, No. 416, eff. 9-1-90; am. (2) and (3), Register, April, 1993, No. 448, eff. 5-1-93; am. (4), Register, March, 1996, No. 483, eff. 4-1-96; am. (1), r. (2) and (3) and renum. and am. (4) to (6) to be (2) to (4), Register, November, 2000, No. 539, eff. 12-1-00; CR 18-065: am. (1), (2), (4) Register October 2020 No. 778, eff. 11-1-20; correction in (4) made under s. 35.17, Stats., Register October 2020 No. 778.

Trans 4.07 Application for state aids.

(1) Applications shall be made in a form and manner prescribed by the department. If multiple local public bodies in a given urban area

contribute assistance to a mass transit system, one eligible applicant shall submit a single application on behalf of all participating local governments. The applicant public body, as well as all other participating local governments, shall assure that the required local shares of eligible project costs will be available.

(1m) Each state aid application shall include a transit management plan which describes the mass transit system's operations for the coming year, including the amount of service to be provided, the fares to be charged, any steps to be taken to improve system effectiveness and efficiency, and the procedures to be used for counting revenue passenger trips.

(2) Applications for aids shall be submitted to the department no later than December 15 of the year immediately preceding the proposed project year. No application received after January 1 of the project year shall be funded unless the secretary of transportation determines that a later date is appropriate in order to properly respond to an emergency situation.

(3) Eligible applicants serving an urban area with a population exceeding 49,999 shall make available their application to the appropriate metropolitan planning organization.

(4) Mass transit services receiving financial assistance may be operated for less than a calendar year.

(5) Costs for services not included in the application for state aids will not be eligible for funding until the following project year unless the department so approves them in writing prior to the time at which costs start accruing.

(6) An eligible applicant intending to submit an application to support a new mass transit system shall notify the department of its intention no later than January 15 of the preceding year to be eligible for funding.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; am. (2), cr. (5) and (6), Register, July, 1981, No. 307, eff. 8-1-81; am. (1), r. (3), renum. (4) to (6) to be (3) to (5), Register, May, 1982, No. 317, eff. 6-1-82; am. (2), Register, October, 1986, No. 370, eff. 11-1-86; r. and recr. (5) and cr. (6), Register, November, 2000, No. 539, eff. 12-1-00; CR 18-065: am. (1), cr. (1m), am. (2) to (6) Register October 2020 No. 778, eff. 11-1-20.

Trans 4.08 State aid grant agreements.

(1) For each calendar year, the department may execute an annual aid grant agreement with each eligible applicant.

(2) State aid grant agreements may be terminated by either the department or the applicant under the following conditions:

(a) By the department, if the department determines that the purpose of the aid program as expressed in s. 85.20, Stats., is not being fulfilled, or if the recipient fails to comply with the terms and conditions of the state aid grant agreement.

(b) By the recipient, if the recipient makes a formal application to the department to do so.

(3) A state aid grant agreement may be terminated as provided in sub. (2) by giving written notice of intent to terminate, sent by certified mail, at least 30 calendar days prior to the proposed termination date.

(4) State aid grant agreements shall require that recipients do the following:

(a) Pay the operating deficit of the mass transit system;

(b) Provide reduced fare programs for seniors and individuals with disabilities during nonpeak hours, except if the mass transit system is a shared-ride taxicab system. Reduced fares may not exceed one-half of the adult cash fare;

(c) Establish and maintain accounting procedures and documents as prescribed or approved by the department;

(d) Assure that the mass transit system will count "revenue passenger trips" in accordance with ch. Trans 3.

DEPARTMENT OF TRANSPORTATION ADMINISTRATIVE CODE, CHAPTER TRANS 4 (CONTINUED)

(e) Assure that the mass transit system will file any reports required by the department at a time and in a manner prescribed by the department. If any report is not filed as required, the department may withhold payments due a grant recipient until the report is filed in the manner and form prescribed;

(f) Assure that, if other local public bodies contribute assistance to the operation of the mass transit system, the state aids received are allocated among the contributors in accordance with any cost sharing agreement that is filed with the department. If no agreement is filed, the aids shall be distributed among the contributors in proportion to their contributions; and

(g) Assure that, if urban mass transit service is provided under a local public body contract with a private provider, the local public body makes payments to the private provider only on the basis of actual billed expenses.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; r. and recr. Register, May, 1982, No. 317, eff. 6-1-82; emerg. r. and recr. (5), eff. 11-18-83; r. and recr. (5), Register, April, 1984, No. 340, eff. 5-1-84; am. (4) (b), (e) and (f), cr. (4) (g), Register, August, 1989, No. 404, eff. 9-1-89; am. (4) (b) and (e), Register, April, 1993, No. 448, eff. 5-1-93; am. (4) (b), Register, November, 2000, No. 539, eff. 12-1-00; CR 18-065: am. (title), (1), (2) (intro.), (a), (3), (4) (intro.), (b), (g), r. (5), (6) Register October 2020 No. 778, eff. 11-1-20.

Trans 4.09 Planning requirements. The following requirements apply to all eligible applicants receiving assistance under s. 85.20, Stats.:

(1) Transit development programs. The applicant shall prepare and submit annually to the department a 4-year transit development program, in the form and manner prescribed by the department.

(2) Performance goals. The applicant shall establish annual service and performance goals for the coming 4 project years and assess the effectiveness of its operations in relation to those goals. The goals shall be submitted to the department as a part of the application for state aids. At a minimum, systemwide goals shall be established for the following performance indicators:

(a) The ratio of passengers, as expressed in unlinked trips to service area population.

(b) The ratio of operating expenses to passengers, as expressed in unlinked trips.

(c) The ratio of operating expenses to revenue hours.

(d) The ratio of revenues to operating expenses.

(e) The ratio of passengers, as expressed in unlinked trips, to revenue hours.

(f) The ratio of revenue hours to service area population.

(3) Transit management plan. The applicant shall submit a transit management plan annually that meets the requirements of s. Trans 4.07 (1m). Each mass transit system's policies and activities shall conform at all times to the transit management plan for the current project year. The applicant shall report to the department any proposed deviations from the transit management plan and shall not implement them prior to department concurrence. The department shall determine if a formal amendment to the transit management plan is required in all cases. The department may require the applicant to hold a public hearing on the proposed change prior to approving the proposal.

(4) Cost efficiency standards.

(a) The department shall assess the performance of each transit system receiving aid under the program on an annual basis, using the 6 performance indicators defined in sub. (2).

(b) The department will assign each mass transit system to a peer group based on operating characteristic similarities.

(c) The department shall establish standards for each of the 6 performance measures defined in sub. (2) based on arithmetic means, for each peer group. Systems that are within one standard deviation of the arithmetic mean shall be judged as in compliance with the standard for the measure. Systems whose performance is better than the one standard deviation shall also be judged as in compliance with the standard for the measure. Systems that meet the standards for 4 of the 6 performance measures shall be deemed in compliance with the cost efficiency standards, and no further action will be taken.

(d) If a transit system does not meet the cost efficiency standards as defined under par. (c), the department shall perform a time-trend analysis, analyzing the 6 performance measures over the most recent 5-year period. Data used will be the data from the preceding calendar year. A system showing improvement in 4 of the 6 indicators shall be deemed in compliance with the cost efficiency standards, and no further action will be taken.

(e) If a transit system does not meet the cost efficiency standards as defined under pars. (c) and (d), an assessment shall be made of the implementation status of recommendations made in the system's most recent management performance audit. A system which has made significant progress in implementing the majority of recommendations targeted at improving efficiency shall be deemed in compliance with the cost efficiency standards, and no further action will be taken.

(f) If a transit system does not meet the cost efficiency standards as defined under pars. (c) to (e), the following actions shall be taken:

1. If management performance audit recommendations have not been implemented, the department shall provide technical assistance to aid in the implementation of the recommendations. If consultant services are necessary, the transit system shall pay the nonfederal share of the consultant's costs.

2. If a management performance audit has not been conducted within the last 3 years, the department shall schedule an audit as soon as possible.

(g) Systems deemed out of compliance with the cost efficiency standards as defined in pars. (c) to (e) shall be given a 3-year period in which to comply before being assessed a revenue penalty. After 3 years of noncompliance, a 10% revenue penalty shall be imposed, which will limit state aids to 90% of the state aid the system would have been entitled to if it were in compliance with the cost efficiency standards. The penalty shall remain in effect until the system comes into compliance.

History: Cr. Register, May, 1982, No. 317, eff. 6-1-82; renum. to be (intro.) and (1), cr. (2) and (3), Register, August, 1990, No. 416, eff. 9-1-90; am. (2) (intro.), (a) to (c) and (e) and cr. (2) (f), Register, November, 2000, No. 539, eff. 12-1-00; cr. (4), Register, January, 2001, No. 541, eff. 2-1-01; CR 18-065: am. (intro.), (1), (2) (intro.), r. and recr. (3), renum. (4) (b) (intro.) to (4) (b) and am., r. (4) (b) 1. to 6., am. (4) (c), (d), (f) 1. Register October 2020 No 778, eff. 11-1-20.

Trans 4.10 Management performance audits. The department shall conduct a management performance audit of all urban mass transit systems participating in the program at least once every 5 years. The department shall determine the scope of services for each audit in cooperation with the management of the mass transit system subject to the audit. This section does not apply to shared-ride taxicab systems.

History: Cr. Register, August, 1990, No. 416, eff. 9-1-90; am. Register, November, 2000, No. 539, eff. 12-1-00.

Department of Transportation Administrative Code, Chapter Trans 6

Chapter Trans 6

RURAL AND SMALL URBAN AREA PUBLIC TRANSPORTATION ASSISTANCE PROGRAM

- Trans 6.01 Purpose and scope.
- Trans 6.02 Definitions.
- Trans 6.03 Federal share of project costs.
- Trans 6.04 Distribution of federal aids.
- Trans 6.05 Operating grants to rural and small urban areas.
- Trans 6.06 Capital grants.
- Trans 6.07 Application for federal aids.
- Trans 6.08 Reporting requirements.
- Trans 6.09 Labor protection requirements.
- Trans 6.10 Property management and disposition.
- Trans 6.11 Federal aid grant agreements.

Trans 6.01 Purpose and scope. The purposes of this chapter are to prescribe the department's administrative interpretation of ss. 85.20 and 85.23, Stats., and to prescribe the administrative policies and procedures for implementing the federal program for public transportation projects in rural and small urban areas. This program is authorized by 49 USC 5311, as amended. The goal of this program is to enhance access of people in rural and small urban areas for purposes such as health care, shopping, education, recreation, public services, and employment by encouraging the maintenance, development, improvement and use of public transportation services.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84; CR 18-065: am. Register October 2020 No. 778, eff. 11-1-20.

Trans 6.02 Definitions.

(1) "Capital equipment" means non-expendable personal property for use in the provision of public transportation service and having all of the following:

(a) A useful life of one year or more.

(b) An acquisition cost of \$5,000 or more per unit.

(1g) "Capitalized maintenance project" means vehicle and facility related maintenance which a mass transit system has classified as a capital project as allowed under 49 USC chapter 53.

(1r) "Department" means the Wisconsin department of transportation.

(2) "Eligible applicant" means a local public body or federally recognized Indian tribal governing body.

(2m) "Eligible project cost" means an expense that an eligible applicant incurs in the operation or capitalization of a public transportation

service for which it is eligible to receive federal section 5311 funds.

(3) “Eligible public transportation service” means a public transportation service operating or designed to operate in rural or small urban areas.

(4) “Federal section 5311 funds” means all funds appropriated to the state for use in the federal program for public transportation projects in small urban, rural and intercity areas.

(4m) “Federal section 5307 funds” has the meaning given in s. Trans 8.02 (4).

(5) “Intercity bus service” means regularly scheduled bus service for the general public that operates over routes connecting 2 or more urbanized areas and serving rural or small urban areas, or both.

(5g) “Job access and reverse commute project” means a transportation project to finance planning, capital, or operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and low-income individuals to and from jobs and employment-related activities, including transportation projects that facilitate the provision of public transportation services from rural and urbanized areas to suburban employment locations.

(5r) “Local contribution” means operating deficit less federal and state operating assistance received.

(6) “Local public body” means one the following:

(a) A county or a municipality as defined in s. 59.001 (3), Stats., or an agency thereof.

(b) A transit or transportation commission or authority, or a public corporation established by law or by interstate compact to provide mass transportation services and facilities.

(c) Two or more of any such bodies acting jointly under ss. 66.0301 to 66.0303, Stats.

(6m) “Low-income individual” means an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in section 673 (2) of the Community Services Block Grant Act, 42 USC 9902 (2), including any revision required by that section.

(7) “Operating deficit” means the difference between the costs of operating an eligible public transportation service and the revenues derived therefrom. User subsidies such as transportation stamps are not considered to be operating project costs for purposes of this chapter.

(7m) “Operating project cost” means a cost accruing to a public transportation service by virtue of its operations, including a cost to subsidize fares paid by individuals with disabilities for transportation within the urban area of the eligible applicant, or its maintenance activities.

(8) “Private provider” means a privately owned (for-profit or nonprofit) entity that provides public transportation service.

(8m) “Project” means operation of a public transportation service or subsystem thereof during a project year, or purchase of capital equipment for use in a service or subsystem thereof.

(9) “Project year” means a calendar year.

(10) “Public transportation service” means a passenger transportation service that is provided to the general public on a regular and continuing basis by a public agency or private firm, and that is authorized by the office of the department secretary under ch. 194, Stats., unless exempt under s. 85.20 (5), Stats., or under ch. 194, Stats. The service may be provided by bus, rail, shared-ride taxicab or other conveyance. The service may constitute an entire public transit system or may be an individual route or a segment of a route provided by a common carrier of passengers. A transportation service provided exclusively for a subgroup of the general public is not considered to be a “public transportation service” for purposes of this chapter, unless it is part of an overall public transit service.

DEPARTMENT OF TRANSPORTATION ADMINISTRATIVE CODE, CHAPTER TRANS 6 (CONTINUED)

(10m) “Rural area” means an area that has not been designated as an “urban area” by the U.S. bureau of the census.

(11) “Small urban area” means any area that includes a city or village having a population of at least 2,500, but not more than 49,999. The department shall determine the population of a city or village within a small urban area using the most recent estimates prepared by the department of administration.

(12) “Station revenues” means those revenues which are derived from the operation of a public transportation facility. Such revenues include concessions, storage rentals, parking, office space rental, and other miscellaneous sources.

(13) “Through revenue” means revenue derived from passengers whose trips begin and end outside an eligible project route but whose route of travel includes the eligible project route.

(14) “Urbanized area” means an area of the state so defined by the U.S. bureau of the census.

(14m) “Useful life” means a minimum time period, specified by the department, during which an asset is expected to remain in suitable operating condition for continued use in its intended capacity.

(15) “User-side subsidy” means a program whereby users of a transit service are permitted to purchase transportation vouchers at prices substantially below the fares charged by the transit provider, or are given ride vouchers free of charge. Users may exchange these vouchers for transportation services, and the provider may then redeem them for the full fare.

(16) “Welfare recipient” means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act, 42 USC 601 et seq., at any time during the previous three-year period.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84; emerg. am. (2), renum. (8) to (13) to be (9) to (14), cr. (8), eff. 2-12-85; emerg. am. (2), renum. (8) to (13) to be (9) to (14), cr. (8) eff. 6-5-85; am. (2), Register, November, 1985, No. 359, eff. 12-1-85; cr. (4m), Register, December, 1987, No. 384, eff. 1-1-88; am. (10), renum. (12) and (13) to be (13) and (14), cr. (12), Register, October, 1989, No. 406, eff. 11-1-89; am. (10), Register, December, 1989, No. 408, eff. 1-1-90; renum. (5) to (14) to be (6) to (15), cr. (5), Register, January, 1993, No. 445, eff. 2-1-93; CR 18-065: renum. (1) to (1) (intro.) and am., cr. (1) (a), (b), (1g), (1r), am. (2), cr. (2m), am. (3) to (5), cr. (5g), (5r), renum. (6) to (6) (intro.) and am., cr. (6) (a) to (c), (6m), am. (7), cr. (7m), am. (8), cr. (8m), am. (10), cr. (10m), am. (12), (14), cr. (14m), am. (15), cr. (16) Register October 2020 No. 778, eff. 11-1-20; correction in (1g) made under s. 35.17, Stats., Register October 2020 No. 778.

Trans 6.03 Federal share of project costs.

(1) The federal share of an eligible public transportation service’s operating project costs shall not exceed 50% of its operating deficit, except for projects where the department uses capital cost of contracting procedures to determine the service’s reimbursement amount. On applicable projects, the capital cost of contracting reimbursement rate shall be based on allowances specified in federal transit law or guidance. The following operating revenues and expenses shall be used to establish the project operating deficit:

(a) Operating revenues shall consist of all passenger revenue derived from the project service, including the portion of through revenue attributed to eligible project routes, station revenues derived from the project service and any unrestricted federal, state or local funds received as a result of providing the project service that are not used to match federal section 5311 funds. Operating revenues also may include income generated through approved job access and reverse commute type projects, consistent with 49 USC 5311.

Note: Charter, package delivery, and package express operating expenses and revenues for all applicants are assumed to be equal and, therefore, shall not have any net financial effect on the project.

(b) Eligible operating costs are those transportation and overhead expenses associated with the provision of public transportation service including labor, fringe benefits, materials and supplies, utilities, insurance, purchased transportation service, license fees and certain lease expenses. They also may include other expenses associated with approved job access and reverse commute type projects, consistent with 49 USC 5311. The following are not eligible project costs:

1. Depreciation and amortization for publicly owned facilities and equipment;
2. Expenses that are offset or that will be offset by means that include, but are not limited to, cash discounts or refunds, tax rebates including fuel tax rebates, insurance proceeds or resale proceeds;
3. Interest expense, except that privately owned systems may include interest on short-term debt obligation;
4. Return on investment, except that a private provider that negotiates all or part of a transportation service contract with an eligible applicant is eligible for a return on its investment. Its return on investment shall be a fixed amount and may not exceed an amount calculated by applying the interest rate the secretary of the treasury specifies under 50 USC App. 1215 (b) (2) as applicable to the period ending on December 31 of the year prior to the project year to the net book value of the private provider's equipment and facilities used in providing the contracted transportation service;
5. Lease-purchase payments;
6. Lease payments to a related party which are made under less than an arm's length agreement. Only actual eligible project costs of owning the property, including depreciation and taxes, shall be allowed;
7. Lease payments by small urban area systems for revenue passenger vehicles unless, and only for the term, pre-approved by the department;
8. Entertainment costs;
9. Fines and penalties;
10. Bad debts;
11. Charitable deductions;
12. User-side subsidies except those specifically funded under an intercity bus project;
13. Payments to members of advisory committees, transit commissions or transit boards;
14. Federal, state and local income taxes;
15. Expenses related to contractual agreements for special planning studies;
17. Expenses for contingencies or capital acquisitions, including contributions to a capital reserve account or fund. The cost of materials and supplies utilized in facility or vehicle repairs, regardless of cost, shall be considered as eligible operating costs so long as the repairs involve replacement of existing items.
18. Fees imposed upon a contracted service provider by the grant recipient, such as taxicab license fees.
19. Job access and reverse commute project expenses, except in cases where the recipient's grant agreement with the department explicitly authorizes use of federal funds for such project(s).

(c) An eligible applicant that contracts with a provider for eligible public transportation service shall use the competitive procurement process

DEPARTMENT OF TRANSPORTATION ADMINISTRATIVE CODE, CHAPTER TRANS 6 (CONTINUED)

set forth in this paragraph to choose a provider. An eligible applicant shall follow this competitive procurement process for each of its eligible public transportation service contracts not less than once every 5 years. If, however, service is provided by a transit commission formed in accordance with an applicable enabling statute, the competitive procurement process need not be used. Eligible applicants shall use the following competitive procurement process:

1. An eligible applicant shall prepare a “request for proposals” document that solicits proposals from providers and that describes essential provider qualifications and criteria for evaluating proposals. The eligible applicant shall send the document to the department for its approval and, after receiving departmental approval, shall post it along with any ancillary documents on the department of administration’s statewide goods and services electronic purchasing system website. The eligible applicant shall also cause an appropriate notice of the request for proposals to be published in a local newspaper of general circulation.
2. If only one qualified provider submits a proposal to provide the eligible public transportation service, and the proposal satisfies all requirements of the eligible applicant’s request for proposals, the eligible applicant may negotiate a contract with that provider. The negotiated contract shall be subject to the department’s approval.
3. If 2 or more qualified providers submit proposals to provide the eligible public transportation service and the proposals satisfy all requirements of the eligible applicant’s request for proposals, the eligible applicant shall rank each provider on the criteria set forth in the request for proposals, and may negotiate a contract with the highest-ranking provider.
4. An eligible applicant shall establish an appropriate procedure for resolving bid proposal complaints and conflicts. The department shall consider procedural complaints or conflicts that include, but are not limited to, complaints that allege that established proposal evaluation procedures have not been followed. The department shall not review the substance of an eligible applicant’s decision to select a particular service provider. This subdivision may not limit the department’s authority to review an eligible applicant’s actions or inactions under this section or under other state or federal law.

(d) Paragraph (c) applies only to eligible applicants filing applications due on or after November 15, 1988.

(2) The federal share of capital project costs shall not exceed 80% of eligible costs, except that the federal share of vehicle-related equipment required by the Clean Air Act or the Americans with Disabilities Act of 1990 may, at the department’s discretion, be up to 90% of the net project cost of such equipment. The department shall establish the appropriateness of each capital expenditure. Where capital equipment is to be shared with parties not directly involved in the provision of the project service, the department will consider the equipment eligible for funding only if the applicant satisfactorily demonstrates that it will be used for the project service at least 50% of the available time. In such cases, the project cost shall be prorated according to the use percentage.

(3) No eligible applicant may use funds received from the United States department of transportation as part of its local contribution towards operating and capital project costs. This includes federal section 5311 operating assistance funds received in past calendar years.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84; emerg. am. (1) (b) 1., 3., 4., and 6., eff. 2-12-85; am. (1) (b) 1., 3., 4., 6. and 7., Register, November, 1985, No. 359, eff. 12-1-85; am. (1) (a) and (b) 4., r. and recr. (1) (b) 2., cr. (1) (c) and (d), Register, December, 1987, No. 384, eff. 1-1-88; reprinted to restore dropped copy in (1) (b) (intro.), Register, May, 1988, No. 389; am. (1) (a), (c) 3. and (2), cr. (1) (b) 18., Register, October, 1989, No. 406, eff. 11-1-89; am. (1) (b) 12. and 17., (c) and (2), Register, January, 1993, No. 445, eff. 2-1-93; CR 18-065: am. (1)

(intro.), (a), (b) (intro.), 4., 6., 7., r. (1) (b) 16., am. (1) (b) 17., 18., cr. (1) (b) 19., am. (1) (c) 1. to 4., (2), cr. (3) Register October 2020 No. 778, eff. 11-1-20.

Trans 6.04 Distribution of federal aids.

(1) The state's annual apportionment of federal section 5311 funds shall be distributed as follows:

(a) Up to 10% will be reserved by the department for administrative and technical assistance purposes. Such technical assistance may include project planning, program development, management development, coordination of public transportation programs and research the department deems appropriate to promote effective means of delivering public transportation services in rural and small urban areas. Any uncommitted balance of the state's apportionment of administrative funds from a preceding project year may be used during subsequent years until the balance is depleted.

(b) Apportionments are initially available for operating assistance grants to eligible applicants, but when combined with state s. 85.20, Stats., operating assistance funds are limited to the lesser of either the operating deficit or 65% of the total eligible operating project costs. No city, village, or town may receive federal section 5311 funds to operate a municipal bus transportation system unless the system is approved by action of its governing body and by referendum vote of its electorate pursuant to s. 66.0803 (2) (a), Stats.

(c) Any balance remaining in the apportionment referred to in par. (b) after operating assistance limits are met under par. (b) shall be available to all eligible applicants for capital grants awarded in accordance with criteria set forth under s. Trans 6.06.

(d) Any balance remaining in the apportionment after capital assistance needs are met under par. (c) shall be available to all eligible applicants for operating assistance beyond the 65% limitation initially imposed in par. (b), not to exceed allowable limits under 49 USC 5311.

(e) Not less than 15% of the apportionment made available to the state shall be used for the development and support of intercity bus service. Eligible activities under this program may include planning and marketing, capital grants for intercity bus shelters, joint-use stops and depots, operating grants through purchase-of-service agreements, user-side subsidies and demonstration projects, and coordination of rural connections between small transit operations and intercity bus carriers. This requirement is effective unless the governor certifies that the intercity bus service needs of the state are adequately being met.

(2) Any uncommitted balances of the state's apportionments or any unexpended balances from previous obligations shall be carried forward to the following year.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84; emerg., am. (1) (c), eff. 2-12-85; emerg. am. (1) (c), eff. 6-5-85; am. (2), Register, November, 1985, No. 359, eff. 12-1-85; am. (1) (c), cr. (1) (d), Register, December, 1989, No. 408, eff. 1-1-90; emerg. r. (1) (b), renum. (1) (c) and (d) to be (1) (b) and (c) and am., cr. (1) (d), eff. 2-20-92; r. (1) (b), renum. (1) (c) and (d) to be (1) (b) and (c) and am., cr. (1) (d), Register, June, 1992, No. 438, eff. 7-1-92; cr. (1) (e) Register, January, 1993, No. 445, eff. 2-1-93; am. (1) (e), Register, July, 1996, No. 487, eff. 8-1-96; correction in (1) (b) made under s. 13.92 (4) (b) 7., Stats., Register March 2012 No. 675; CR 18-065: am. (1) (intro.), (a), (b), (d), (e) Register October 2020 No. 778, eff. 11-1-20.

Trans 6.05 Operating grants to rural and small urban areas. Subject to the limitations set forth in s. Trans 6.03 (1), the operating assistance funds available in s. Trans 6.04 (1) (b) and (d) shall be allocated among eligible applicants in proportion to each applicant's share of the projected operating project costs of all applications.

DEPARTMENT OF TRANSPORTATION ADMINISTRATIVE CODE, CHAPTER TRANS 6 (CONTINUED)

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84; emerg. am. eff. 2-20-92; am. Register, June, 1992, No. 438, eff. 7-1-92; CR 18-065: am. (title) Register October 2020 No. 778, eff. 11-1-20.

Trans 6.06 Capital grants.

(1) When awarding capital assistance funds under s. Trans 6.04 (1) (c), the department shall consider the age and condition of items for which eligible applicants request funding, and the following funding hierarchy:

- (a) Urgent capital needs that, based on available information, the department deems critical to transportation safety, operations, or asset management;
- (b) Replacement of vehicles operated by existing systems;
- (c) Projects to initiate a public transportation service;
- (d) Replacement of maintenance and storage facilities of existing systems;
- (e) Purchase of vehicles by existing systems for expansion of transit services;
- (f) Expansion and rehabilitation of maintenance and storage facilities of existing systems;
- (g) Purchase and installation of passenger amenities for existing systems such as shelters and bus stop signs;
- (h) Capitalized maintenance projects for existing transit systems;
- (i) Mobility management projects;
- (j) Job access and reverse commute projects, except where the department evaluates these projects through a stand-alone process using a set-aside of section 5311 funds; and
- (k) Other capital projects for which the use of section 5311 is permitted under 49 USC chapter 53.

(2) The department shall make awards until all allocated funds are committed. If available funds are not sufficient to fund all capital requests, then the department may, after consulting with applicants, reduce the scope or modify the timing of proposed projects to fit available funding.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84; r. (1) (a), renum. (1) (b) to (g) to be (1) (a) to (f) and am. (1) (b), Register, November, 1985, No. 359, eff. 12-1-85; emerg. am. (1) (intro.), eff. 2-20-92; am. (1) (intro.), Register, June, 1992, No. 438, eff. 7-1-92; CR 18-065: r. and recr. Register October 2020 No. 778, eff. 11-1-20; correction in (1) (a) made under s. 35.17, Stats., Register October 2020 No. 778.

Trans 6.07 Application for federal aids.

(1) Eligible applicants may apply to the department for federal section 5311 funds. If more than one local public body will financially participate in the project, one body shall submit a single application on behalf of all. In those cases, the federal aids received shall be allocated among all local public bodies in proportion to each one's share of eligible project costs.

(2) Applications shall be submitted to the department no later than December 15 of the year immediately preceding the project year. The department may accept revisions to a submitted application during the application review period. No application for operating assistance or capital assistance received after December 15 of the year immediately preceding the project year may be funded unless the department secretary determines that a later date is appropriate in order to properly respond to an emergency.

- (3) The transit services receiving financial assistance may be operated for less than a calendar year.
- (4) Applications shall be made in a manner and form prescribed by the department in accordance with governing federal regulations.
- (5) All applicants shall submit their applications to the department's bureau of transit, local roads, railroads and harbors.
- (7) The department reserves the right to reject applications for any of the following reasons:
 - (a) The proposed project is not consistent with the intent of the federal section 5311 program;
 - (b) Insufficient federal funds are available;
 - (c) The application is incomplete;
 - (d) The proposed project is not effective and efficient when compared to projects of a similar type. Such measures as the ratio of operating revenues to operating expenses, passengers per mile of service, operating expenses per passenger, and passengers per population served may be used to determine effectiveness and efficiency.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84; emerg. am. (2) eff. 6-5-85; am. (2), Register, November, 1985, No. 359, eff. 12-1-85; am. (2), Register, December, 1987, No. 384, eff. 1-1-88; am. (2) and (5), Register, January, 1993, No. 445, eff. 2-1-93; correction in (6) made under s. 13.92 (4) (b) 6., Stats., Register March 2012 No. 675; corrections in (5), (6) made under s. 13.92 (4) (b) 6., Stats., Register February 2013 No. 686; CR 18-065: am. (1) to (3), (5), r. (6), am. (7) (a), (b) Register October 2020 No. 778, eff. 11-1-20.

Trans 6.08 Reporting requirements. All grant recipients shall maintain books and records in the manner required by the department and shall make periodic and special reports as required by the department or by governing federal regulations. If the reports are not filed as required, the department may withhold grant payments due the recipient until the recipient's reports are filed as required.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84; am. Register, January, 1993, No. 445, eff. 2-1-93.

Trans 6.09 Labor protection requirements. Each eligible applicant, through formal resolution by its governing body, shall assume all responsibility and liability for all labor protection requirements imposed by the federal government to implement section 13 (c) of the urban mass transportation act of 1964, as amended. The department shall not fund any applicant that fails to comply with this section.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84.

Trans 6.10 Property management and disposition.

- (1) Grant recipients shall retain ownership of, and exercise continuing control over, equipment and facilities purchased with federal section 5311 funds throughout their useful life. Grant recipients shall ensure that equipment and facilities so purchased are maintained consistent with manufacturer instructions, sound asset management practices, and the terms of their grant agreements with the department.
- (2) Grant recipients shall report on equipment and facilities purchased with federal section 5311 funds in a manner, format, and timeframe that the department specifies.
- (3) Grant recipients shall request disposal instructions from the department when they are ready to dispose of any equipment or facilities purchased with federal section 5311 funds.
- (4) Proceeds received from the disposition of equipment and facilities may be retained by the grant recipient subject to the provision of

DEPARTMENT OF TRANSPORTATION ADMINISTRATIVE CODE, CHAPTER TRANS 6 (CONTINUED)

sub. (4m) below but shall be used for public transit purposes consistent with applicable federal transit administration guidelines, such as the following:

- (a) To purchase additional capital equipment.
- (b) To pay expenses of the operating assistance project.
- (c) To pay the local share of capital assistance projects.
- (d) To pay the local share of operating assistance projects.

(4m) For each disposition of a federally funded asset that generates proceeds in excess of \$5,000, the federal transit administration is due the federal share of the proceeds.

(5) Any use by the grant recipient of proceeds from the disposal of equipment or facilities requires prior approval of the department. Records shall be maintained by the grant recipient to permit tracking of the use made of the disposal proceeds.

History: Cr. Register, December, 1987, No. 384, eff. 1-1-88; r. and recr. Register, October, 1989, No. 406, eff. 11-1-89; CR 18-065: r. and recr. (1), (2), am. (3), (4) (intro.), cr. (4m), am. (5), r. (6) Register October 2020 No. 778, eff. 11-1-20.

Trans 6.11 Federal aid grant agreements. No eligible applicant shall receive federal section 5311 funds without full execution of a grant agreement with the department, and continuing adherence to the terms therein.

History: Cr. Register, December, 1987, No. 384, eff. 1-1-88; CR 18-065: r. and recr. Register October 2020 No. 778, eff. 11-1-20.

